

IN THE UNITED STATES DISTRICT COURT  
DISTRICT OF MINNESOTA

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IN RE: BAIR HUGGER FORCED AIR      MDL No.: 15-md-02666 (JNE/FLN)  
WARMING PRODUCT LIABILITY  
LITIGATION

This Document Relates To:

MINNIE RIVERS,

Civil Action No.: 16-CV-01847-JNE-FLN

Plaintiff,

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**DECLARATION OF DONALD C. GREEN II IN SUPPORT OF  
PLAINTIFF'S RESPONSE TO DEFENDANTS' MOTION TO DISMISS**

I, Donald C. Green II, declare as follows:

1. I am an attorney at Kennedy Hodges, LLP and Counsel for Plaintiff Minnie Rivers in the above-captioned matter.
2. I submit this affidavit in opposition to Defendants' Motion to Dismiss for Failure to Comply with Pretrial Order No. 14 filed on August 3, 2017.
3. Ms. Rivers contacted Kennedy Hodges, LLP in June of 2015 regarding injuries that were allegedly caused by the Bair Hugger patient warming device.
4. Medical records and billing records pertaining to Ms. Rivers' treatment were obtained by Kennedy Hodges through its third party medical records retrieval company. Those records demonstrate use of a Bair Hugger device during her original orthopedic surgery.

5. This case was filed on June 3, 2016 to comply with the statute of limitations deadline.
6. During a phone call on November 15, 2016, Mr. Michael Weaver stated to a Kennedy Hodges staff member that Ms. Rivers had passed away within the last few months. He expressed a desire to continue the case and stated that he would work with us to make sure that we obtained the paperwork and information necessary to move forward.
7. Over the next few months, Counsel worked with Mr. Weaver to obtain additional answers on the Plaintiff Fact Sheet. However, Mr. Weaver was unable to provide some answers and the Plaintiff Fact Sheet remained incomplete.
8. After our last contact with Mr. Weaver on May 26, 2017, several phone calls have been placed to Mr. Weaver by staff at Kennedy Hodges in an attempt to reach him and obtain the missing information for the Plaintiff Fact Sheet and the necessary probate paperwork. These calls have gone unanswered, and voice messages left with Mr. Weaver have not been returned.
9. Additionally, several letters have been sent to Mr. Weaver since our last contact with him requesting the information and probate paperwork needed to move forward with the case.
10. Although Mr. Weaver had stated that Ms. Rivers has passed away, no death certificate was ever received to confirm Ms. Rivers' passing.

11. Based on information and belief, Mr. Weaver has not made any attempt to contact Kennedy Hodges in response to these phone calls and letters to provide the information necessary to complete the Plaintiff Fact Sheet.

12. As we have been unable to obtain the additional information necessary to complete the Plaintiff Fact Sheet for this claim, we have not been able to cure the alleged deficiencies pertaining to the Plaintiff Fact Sheet that has been submitted for this case.

Pursuant to 28 U.S.C. § 1746(2), I declare under penalty of perjury that the foregoing is true and correct.

August 10, 2017

/s/ Donald C. Green II  
Donald C. Green II